IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JACK WILLIAM WOLF,	)	
Plaintiff,	)	
v.	)	Civ. No. 04-1385-GMS
THOMAS CARROLL, DCC MEDICAL DEPARTMENT, C/O PUSEY, C/O CARTER, and LT. SEACORD,	)	
Defendants.	)	

FILED
JUL 19 2005
U.S. DISTRICT COURT
DISTRICT OF DELAWARE

ORDER

WHEREAS, the plaintiff, Jack William Wolf, SBI #93532 is a prisoner incarcerated at the Delaware Correctional Center, in Smyrna, Delaware, and plaintiff filed a complaint under 42 U.S.C. § 1983, along with an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915;

WHEREAS, on January 5, 2005, this court issued a service order requiring the United States Marshal ("USM") to serve the complaint upon receipt of USM 285 forms for each defendant (D.I. 7);

WHEREAS, on January 21, 2005, the plaintiff filed a letter "motion to amend complaint" which appears to request leave to replace defendant "C/O Wheeler" with defendant "C/O Pusey," and to add defendant "Lt Seacord" (D.I. 8);

WHEREAS, on February 17, 2005, the plaintiff filed a second letter "motion to amend complaint" regarding his requested relief, stating that he is afraid the defendants will assault him once they are served with the complaint, and requesting that the court order his transfer to another correctional facility (D.I. 9);

THEREFORE, at Wilmington this 19th day of July, 2005, IT IS ORDERED that:

1. The plaintiff's first letter "motion to amend complaint" (D.I. 8) is GRANTED. The clerk of the court shall amend the caption of the complaint by changing defendant "C/O Wheeler" to "C/O Pusey," and by adding defendant "Lt. Seacord."

2. The plaintiff's second letter "motion to amend complaint" (D.I. 9) is DENIED. In this instance, the plaintiff merely speculates that the defendants will retaliate against him when they are served with the complaint. See Wilson v. Dep't of Corr., No. 99-614-JJF, 2001 U.S. Dist. LEXIS 10598 *8 (D. Del. Jul. 24, 2001)(finding that plaintiff's amended complaint did not add any allegations or evidence to support his equal protection claim); see also Fed R. Civ. P. 15(a). However, the parties are hereby notified that if the court receives any allegations of retaliation as a result of the service of this complaint, the court shall hold an evidentiary hearing regarding the validity of the allegations.

3. The clerk of the court shall cause a copy of this

order to be mailed to the plaintiff.

4. This order shall supercede the court's order dated January 5, 2005.

5. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), the plaintiff shall complete and return to the clerk of the court an **original** "U.S. Marshal-285" form for **each defendant**, as well as for **the Attorney General of the State of Delaware**, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). **Additionally, the plaintiff shall provide the court with one copy of the complaint (D.I. 2), the first letter motion to amend complaint (D.I. 8), and the second letter motion to amend complaint (D.I. 9) for each defendant. Furthermore, the plaintiff is notified that the United States Marshal will not serve above referenced documents until all "U.S. Marshal 285" forms have been received by the Clerk of the Court. Failure to provide the "U.S. Marshal 285" forms within 120 days of this order may result in the complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**

6. Upon receipt of the form(s) required by paragraph 5 above, the United States Marshal shall forthwith serve a copy of the complaint (D.I. 2), the first letter motion to amend complaint (D.I. 8), the second letter motion to amend complaint (D.I. 9), this order, a "Notice of Lawsuit" form, the filing fee

order(s), and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.

7. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

8. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

9. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel. The clerk is instructed not to accept any such document unless accompanied by proof of

service.

United States District Judge